

**From the desk of**

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## **Procedures when closing an unicorporated business (Sole Proprietorship)**

With the pandemic which has a 98.8% recovery rate, small businesses are not recovering as well, and many have been forced to close, and will not be financially able to recover.

As with anything else including death, in this case death of a business, nothing is final until the paperwork is done.

A sole proprietorship is an unincorporated business owned by a single individual (sole proprietor).

The financial results of such businesses are reported directly on the sole proprietor's personal income tax return on Form 1040 Schedule C, Profit or Loss from Business.

A sole proprietor who goes out of business must file final employment tax returns, those being:

- Form 941, Employer's Quarterly Federal Tax Return or Form 944, Employer's Annual Federal Tax Return;
- Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return).

These returns must be marked "final return."

A final Form 941 must be accompanied by a statement indicating where the employment tax records will be kept and the name and address of the new owner of the business if the business has been sold.

If there is no sale or transfer of the business that fact should be included in the statement.

Form 1099-NEC, Nonemployee Compensation, is used by businesses to report payments to nonemployee workers (i.e., independent contractors).

A business must file a Form 1099-NEC with the IRS for each nonemployee worker to whom the business paid \$600 or more and provide a copy to the nonemployee worker. (Form 1099-NEC, Instructions)

Any business that operates a food or beverage establishment must file Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips.

A food or beverage establishment is a "food or beverage operation":

1. That is located in the U.S.,
2. Where customer tipping of food or beverage employees is customary, and

3. Normally employed more than 10 employees on a typical business day during the preceding calendar year (the 10-employee test). (Form 8027, Instructions)

A food or beverage operation is any business activity that provides food or beverages for consumption on the premises (e.g. a restaurant or a bar), other than fast food operations. Generally, tipping is not considered customary in a cafeteria-style operation or if at least 95% of total sales (other than carryout) had a service charge of 10% or more. (Form 8027, Instructions)

### **Closing a Sole Proprietorship**

A sole proprietor should take the following steps when closing the business:

1. If the business has one or more employees, the employer should file final employment tax returns and make employment tax deposits for the calendar year in which the business makes its final wage payments.

Employment tax returns include Form 940, Form 941 and Form 944.

2. The employer also needs to provide employees with Forms W-2, Wage and Tax Statement, and File Form W-3, Transmittal of Income and Tax Statements, to transmit Form W-2, Copy A, to the Social Security Administration (SSA) for the calendar year in which the business makes its final wage payments.

Forms W-2 can be filed electronically using the SSA's Business Services Online (BSO) filing portal. Electronically filed Forms W-2 don't need to be transmitted using a Form W-3. Federal tax deposits must be made using the Electronic Federal Tax Payment System (EFTPS). Both the BSO and EFTPS require registration before they can be used to file documents or make payments, respectively.

3. If the business paid any nonemployee workers (independent contractors) \$600 or more, it will need to provide them with Forms 1099-NEC and, if not e-filing its Forms 1099-NEC, the business will need to use Form 1096, Annual Summary and Transmittal of U.S. Information Returns, to transmit paper copies of Forms 1099-NEC to the IRS.

Forms 1099-NEC can be filed electronically using the IRS's Filing Information Returns Electronically (FIRE, yes, that is what they call it) system.

4. If the business is a large food or beverage establishment and has tipped employees, the business should file Form 8027 to report final tip income and allocated tips.

5. If the business provided its employees with a pension or benefit plan, the business will need to file a final Form 5500, Annual Return/Report of Employee Benefit Plan. Form 5500 and Form 5500-SF, Annual Return/Report of Employee Benefit Plan Short Form, must be filed electronically. Form 5500-EZ, Annual Return of One Participant (Owners and their Spouses) Retirement Plan, can't be electronically filed and, therefore, must be filed on paper with the IRS.

6. File the individual income tax return and pay any taxes due. With the Form 1040 or Form 1040-SR, a sole proprietor should file a Schedule C to figure any profit or loss from the business. A Schedule SE, Self-Employment Tax, should also be filed if any self-employment tax is due. If the sole proprietor sold the business, he or she should also attach to the return Form 8594, Asset Acquisition Statement. If the sole proprietor sold business property, he or she should attach to the return Form 4797, Sale of Business Property.

7. Close the business's account with the IRS.

8. After all their returns are filed, the sole proprietor should send the IRS a letter with the business's complete legal name, employer identification number (EIN), and business address, explaining why the business wants to close its account. Include a copy of the business's SS4 letter containing its EIN assignment (also known as a 147C letter). Send the letter to: Internal Revenue Service, Cincinnati, Ohio 45999.

All employment tax returns, W2's, W3, all 1099's must be filed by January 31 of the year following the closure of the business.

All appropriate tax returns must be filed before the IRS will close the business's account.

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**We here at Muffoletto & Company believe that the more informed you are in regards to the rules and regulations that affect you the more we can be of service.**

**Should you have questions relating to any tax or financial matters call at**

**(818) 346-2160,**

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